



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

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July 27, 1953

Hon. C. H. Cavness
State Auditor
Capitol Station
Austin, Texas

Letter Opinion No. MS-72

Re: Applicability of the penalty
interest rate on delinquent
school land purchase con-
tracts during the grace period
following the purchaser's
death in which forfeiture of
the land is forbidden under
Article 5326, V.C.S.

Dear Mr. Cavness:

Your letter requests our opinion on the follow-
ing question:

"When the purchaser of Public School
land dies leaving an amount unpaid on the
purchase contract and is also delinquent
in his interest payments thereon, should
the General Land Office charge the heirs
or estate of such purchaser penal interest
on the delinquent interest during the
period from the date of the purchaser's
death to one year from the next November
1st?"

Article 5421c, Section 7, V.C.S., provides:

"From and after the passage of this Act
all unpaid and delinquent interest on sales
of public school land, and annually on Novem-
ber 1st of each year as it becomes delinquent
all unpaid interest on public school land
sales shall bear interest at the rate of five

(5) per cent, compounded annually as it accrues on November 1st of each year; and no patent shall be issued upon any land until all compounded interest shall be paid to the time of issuing patent."

The material portions of Article 5326, V.C.S. as amended by ch. 59, Acts 1951, 52nd Leg., p. '92, are as follows:

"If any portion of the interest on any sale should not be paid when due, the land shall be subject to forfeiture by the Commissioner. . . . In all cases the original obligations and penalties shall thereby become as binding as if no forfeiture had ever occurred. If any purchaser shall die, his heirs or legal representatives shall have one (1) year in which to make payment after the first day of November next after such death, before the Commissioner shall forfeit the land belonging to such deceased purchaser; and should such forfeiture be made by the Commissioner within said time, upon proper proof of such death being made, such forfeiture shall be set aside, provided that no rights of third persons may have intervened. Nothing in this Article shall inhibit the State from instituting such legal proceedings as may be necessary to enforce such forfeiture, or to recover the full amount of the interest and such penalties as may be due the State at the time such forfeiture occurred, or to protect any other right to such land" (Emphasis added throughout.)

Article 5326 was re-enacted into its present form by Section 2 of ch. 59, Acts 52nd Leg. 1951, p. 92. Section 1 of said Act extends the due date for payment of principal on school land purchases to November 1, 1961, and provides "that the unpaid balance of principal upon which an extension of time for payment is

hereby granted shall bear interest during said period of extension at the rate provided for in the contract of purchase hereby extended, and past due installments of interest shall bear interest at the rate provided for" in Section 7, Article 5421c.

Article 5326, as amended, makes no provision for relieving the estate of a deceased purchaser of the duty to pay compound interest. Rather, it grants a period of grace during which forfeiture is forbidden. We think that the above portions of said statute reflect a legislative intent that compound interest shall continue to accrue through the grace periods. We therefore answer your question in the affirmative.

Yours very truly,

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Attorney General

By
J. Arthur Sandlin
Assistant

JAS:bt:am